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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,294	01/11/2001	Kouji Sakai	YAMAHS.778A	2802

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/759,294

Applicant(s)

SAKAI, KOUJI

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 and 32-46 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6-13, 20, 34, 36-39, 44 and 46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 4, 5, 14-16, 31-33, 35, 40 and 42 is/are allowed.
- 6) ☒ Claim(s) 17-19, 21, 22, 41 and 45 is/are rejected.
- 7) ☒ Claim(s) 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 44 and 46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are similar to claims 3 and 6 which were previously determined to be drawn to a non-elected species.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 44 and 46 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 17-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tschanz.

Re: claim 17, 18, 21, and 22. Tschanz shows in figure 1 a suspension system comprising a first damper 1, a second damper 2, a third damper 1, and a fourth damper

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2, the first damper and the second damper being joined by a first pressure regulator 27 and defining a first damper pair and the third damper and the fourth damper defining a second damper pair, the first damper pair and the second damper pair being connected together through means for regulating flow R shown next to element 3, the first pressure regulator and the means for regulating flow being connected only in series between the first damper pair and the second damper pair.

Re: claim 19. Tschanz shows in figure 1 a second pressure regulator or R shown next to element 1 connecting the second damper pair to the means for regulating flow.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 41 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai '018.

Re: claim 41. (Second Interpretation) Sakai '018 shows in figure 19 (all elements are labeled by Examiner in the copy of figure 19 attached in the Office Action of paper no. 10 mailed on 4/25/02) a suspension system for a four wheeled vehicle as disclosed in line 3 of the abstract, the suspension system comprising a first damper, a second damper, a third damper, and a fourth damper, each of the dampers comprising a cylinder body and a piston arranged to reciprocate within the damper, each piston

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dividing an interior of each cylinder body into an upper chamber and a lower chamber, each piston also comprising a connecting passage that places the upper chamber and the lower chamber in fluid communication, the lower chamber of the first damper and the lower chamber of the second damper being interconnected with a pressure regulator, the pressure regulator comprising a first pressure regulating chamber and a second regulating chamber, a first movable wall defining at least a portion of the first pressure regulating chamber and a second movable wall defining at least a portion of the second pressure regulating chamber, the lower chamber of the first damper being connected to the first pressure regulating chamber and the lower chamber of the second damper being connected to the second pressure regulating chamber, the pressure regulator further comprising a third pressure regulating chamber, the third pressure regulating chamber being connected with the third damper and the fourth damper through at least a first conduit via the first and second pressure regulating chambers and the respective movable walls, a flow regulator containing a first flow regulating chamber and a second flow regulating chamber, the first flow regulating chamber and the first conduit in communication through a throttled passage, but does not disclose the limitation of a passage extending between the first pressure regulating chamber and the second pressure regulating chamber of the pressure regulator.

Sakai '018 figure 19 shows a pressure regulator having a U-shaped member with the movable wall members being guided along the walls of a U-shaped pressure regulator housing. Sakai '018 figure 3 teaches a well-known alternate means of constructing a pressure regulator including the use of a U-shaped member including

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left-side 127, 128 and right-side 127 with the U-shaped member being guided within the pressure regulator via a rod 132 and rod guide member 134, the rod guide member having a passage shown in the area of element number 133, which extends between first 148 and second 155 regulating chambers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the construction of the pressure regulator of Sakai '018 figure 19 with a construction having a rod guide passage between two regulating chambers, as taught by Sakai '018 figure 3, in order to provide an alternate and effective means of guiding the movable walls during the reciprocating motion in the pressure regulating chamber.

Re: claim 45. Sakai '018 discloses in col. 5 lines 35-37 the limitation of the first damper being a front left damper and the second damper being a rear left damper.

#### ***Allowable Subject Matter***

6. Claims 1, 2, 4, 5, 14-16, 31-33, 35, 40, and 42 are allowed.
7. Claim 43 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 17-19, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection.

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9. Applicant's arguments filed 6/16/03 have been fully considered but they are not persuasive. Examiner notes that claim 41 does not include the limitation of the fluid communication between the third pressure regulating chamber and the third damper.

***Conclusion***

10. In order to complete the record, it should be noted that no conflict appears to presently exist between the subject matter defined by the instant claims and the subject matter of the claims of applicant's and/or assignee's Patent 6250658 to Sakai and co-pending applications 09/745348 and 09709969 have been made of record.

Accordingly, no double patenting rejection is entered into the instant application. See MPEP 804+ concerning double patenting type of rejections, if necessary. Applicant and/or assignee should maintain this clear line of patentable distinction between the instant claims and the claims of the indicated patent application.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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mmb

September 8, 2003

  
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